

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## SENATE ENROLLED ACT No. 18

AN ACT to amend the Indiana Code concerning elections.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 3-8-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) This section does not apply to a candidate for federal office.

**(b) As used in this section, "felony" means a conviction in any jurisdiction for which the convicted person might have been imprisoned for at least one (1) year. However, the term does not include a conviction:**

- (1) for which the person has been pardoned; or**
- (2) that has been:**
  - (A) reversed;**
  - (B) vacated;**
  - (C) set aside; or**
  - (D) not entered because the trial court did not accept the person's guilty plea.**

~~(b)~~ **(c)** A person is disqualified from ~~holding~~ **assuming** or being a candidate for an elected office if: ~~the person:~~

- (1) the person** gave or offered a bribe, threat, or reward to procure the person's election, as provided in Article 2, Section 6 of the Constitution of the State of Indiana;
- (2) the person** does not comply with IC 5-8-3 because of a conviction for a violation of the federal laws listed in that statute;

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(3) ~~has~~ in a:

(A) jury trial, a jury publicly announces a verdict against the person for a felony;

(B) bench trial, the court publicly announces a verdict against the person for a felony; or

(C) guilty plea hearing, the person pleads guilty or nolo contendere to a felony;

(A) entered a plea of guilty or nolo contendere to; or

(B) been convicted of;

a felony (as defined in IC 35-50-2-1);

(4) **the person** has been removed from the office the candidate seeks under Article 7, Section 11 or Article 7, Section 13 of the Constitution of the State of Indiana;

(5) **the person** is a member of the United States armed forces on active duty and prohibited by the United States Department of Defense from being a candidate; or

(6) **the person** is subject to:

(A) 5 U.S.C. 1502 (the Little Hatch Act); or

(B) 5 U.S.C. 7321-7326 (the Hatch Act);

and would violate either federal statute by becoming or remaining the candidate of a political party for nomination or election to an elected office or a political party office.

**(d) The reduction of a felony to a Class A misdemeanor under IC 35-50-2-7 or IC 35-38-1-1.5 does not affect the operation of subsection (c).**

SECTION 2. IC 5-8-1-37 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 37. (a) As used in this section:

"Felony" means any crime punishable by imprisonment for more than one (1) year in any correctional facility. **has the meaning set forth in IC 3-8-1-5.**

"Public officer" means any person, elected or appointed, who holds any state, county, township, city, or town office.

(b) Any public officer convicted of a felony during ~~his~~ **the officer's** term of office shall:

(1) be removed from office by operation of law when: ~~he~~ **is sentenced for the felony;**

(A) in a jury trial, a jury publicly announces a verdict against the person for a felony;

(B) in a bench trial, the court publicly announces a verdict against the person for a felony; or

(C) in a guilty plea hearing, the person pleads guilty or nolo contendere to a felony; and

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(2) not receive any salary or remuneration from the time ~~he is sentenced for the felony~~; **the officer is removed from office under subdivision (1).**

**(c) The reduction of a felony to a Class A misdemeanor under IC 35-50-2-7 or IC 35-38-1-1.5 does not affect the operation of subsection (b).**

~~(c)~~ (d) If the conviction is: ~~reversed; vacated; or set aside;~~

**(1) reversed;**

**(2) vacated;**

**(3) set aside;**

**(4) for a felony other than a felony arising out of an action taken in the officer's official capacity, reduced to a Class A misdemeanor under IC 35-50-2-7 or IC 35-38-1-1.5; or**

**(5) not entered because the trial court did not accept the guilty plea;**

and the officer's term has not expired, the officer shall ~~(1)~~ be reinstated in office and ~~(2)~~ receive any salary or other remuneration which ~~he the officer~~ would have received had ~~he the officer~~ not been removed from office.

~~(d)~~ (e) If the conviction is reversed, vacated, or set aside, and the officer's term has expired, ~~he the officer~~ shall receive any salary or other remuneration which ~~he the officer~~ would have received had ~~he the officer~~ not been removed from office.

~~(e)~~ (f) Every vacancy in a public office caused by the removal of a public officer under this section shall be filled as provided by law. If a convicted public officer is reinstated, the person filling the office during the appeal shall cease to hold the office.

**SECTION 3. An emergency is declared for this act.**

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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

Approved: \_\_\_\_\_

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Governor of the State of Indiana

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